



## Board of Health Agenda

Date: March 16, 2022

Time: 5:00 PM

Location: Conducted by Remote Participation

### 1. Administrative

#### **BOARD OF HEALTH MEETING AGENDA**

Date: Wednesday, March 16, 2022

Time: 5:00pm

Location: Conducted by Remote Participation

In accordance with the Governor's Order Suspending Certain Provisions of the Open Meeting Law, G. L. c. 30A, § 20 relating to the COVID-19 emergency and subsequent [Act Extending Certain COVID-19 Measures Adopted During the State of Emergency](#), the March 16, 2022 public meeting of the Arlington Board of Health shall be physically closed to the public to avoid group congregation. The meeting shall instead be held virtually using Zoom.

#### ***Public access to this meeting shall be provided in the following manner:***

Real-time public comment can be addressed to the Board of Health utilizing the Zoom virtual meeting software for remote participation. This application will allow attendees to request an opportunity for public comment, and allow the Board Chair to grant attendees the opportunity for public comment. Attendees can use either phone or computer to participate in the meeting. Public comment can also be sent in advance of the meeting by emailing the Board of Health at [boh@town.arlington.ma.us](mailto:boh@town.arlington.ma.us) by no later than 5pm on March 14, 2022. Submitted public comment will be read into the record at the appropriate points in the meeting.

#### ***Zoom Login instructions:***

Instructions and the meeting link for this specific meeting can be found on the Board's agenda and minutes page or on the Town's meeting calendar. The meeting registration information is listed below. When attendees enter the meeting, they will be placed into a virtual waiting room. Attendees will be admitted into the meeting from the waiting room at the start of the meeting.

Please register in advance for this meeting:

**<https://town-arlington-ma-us.zoom.us/meeting/register/tZctc-GvrTgiGtb06fvguUol1YLUM844LTyb>**

#### **On this agenda:**

2. Acceptance of Meeting Minutes from January 26, 2022
3. Acceptance of Meeting Minutes from February 16, 2022

4. HEARING:

Tobacco Permit - Galaxy Market

5. DISCUSSION:

Town Meeting Warrant Articles

6. PRESENTATION:

Zero Waste Arlington - Plastic Water Bottle Bylaw

7. UPDATES:

Environmental Health

8. UPDATES:

Restaurants

9. UPDATES:

COVID-19

10. UPDATES:

Public Health Nurse

PUBLIC COMMENT

Adjourn



Town of Arlington  
Department of Health and Human Services  
Office of the Board of Health  
27 Maple Street  
Arlington, MA 02476

Tel: (781) 316-3170  
Fax: (781) 316-3175

## BOARD OF HEALTH MEETING MINUTES

Date: January 26, 2022

Time: 5:00PM

Location: Conducted by Remote Participation

In accordance with the Governor's [Order Suspending Certain Provisions of the Open Meeting Law, G. L. c. 30A, § 20](#) relating to the COVID-19 emergency, the August 19, 2020 public meeting of the Arlington Board of Health shall be physically closed to the public to avoid group congregation. The meeting shall instead be held virtually using Zoom.

***Public access to this meeting shall be provided in the following manner:***

Real-time public comment can be addressed to the Board of Health utilizing the Zoom virtual meeting software for remote participation. This application will allow attendees to request an opportunity for public comment, and allow the Board Chair to grant attendees the opportunity for public comment. Attendees can use either phone or computer to participate in the meeting. Public comment can also be sent in advance of the meeting by emailing the Board of Health at [boh@town.arlington.ma.us](mailto:boh@town.arlington.ma.us) by no later than 5pm on January 25, 2021. Submitted public comment will be read into the record at the appropriate points in the meeting.

***Zoom Login instructions:***

Instructions and the meeting link for this specific meeting can be found on the [Board's agenda and minutes page](#) or on the [Town's meeting calendar](#). The meeting registration information is listed below. When attendees enter the meeting, they will be placed into a virtual waiting room. Attendees will be admitted into the meeting from the waiting room at the start of the meeting.

Please register in advance for this meeting:

<https://town-arlington-ma-us.zoom.us/join/9tEucuiqpjotGtC0B-t9K1DEz2y1VVEtlynM>

After registering, you will receive a confirmation email containing information about joining the meeting.

**On this agenda:**

1. Administrative

Natasha Waden provided the following opening statement: Good Afternoon, this is Natasha Waden, Public Health Director for the Town of Arlington. Consistent with the Governor's orders suspending certain provisions of the Open Meeting Law and allowing us to adhere to social distancing requirements during the COVID-19 crisis, this Town of Arlington Board of Health meeting is being held virtually via Zoom for audio and video participation of Board Members and the public. When you entered this

meeting, you were automatically muted. During this meeting you will be unmuted individually as needed. These controls are in place to ensure that today's meeting is safe and effective. At this time, I would like to confirm that all members and persons anticipated on today's agenda are present and can hear me.

Board Members, when your name is called, please respond in the affirmative.

1. Dr. Marie Walsh Condon, Aye
2. Dr. Kevin Fallon, Aye
3. Kenneth Kohlberg, Aye

Health Department staff, please respond in the affirmative when your name is called.

1. Diana DeStefano, Aye
2. Ashley Jean, Aye
3. Pat Martin, Aye
4. Annette Curbow, Aye
5. Cameron Bishop, Aye
6. Natasha Waden, Aye
7. Christine Bongiorno, Aye
8. Jessica Kerr, Aye

Applicants and Representatives, do we have anyone on the call representing an application?

1. Rotem Aloni – Tobacco Coordinator, Aye
2. Farah and Shajid Shaikh- Galaxy Market, Aye
3. Susan Rossi- Susan's Barbershop, Aye

Thank you everyone.

As stated, this Open Meeting of the Arlington Board of Health is being conducted remotely consistent with Governor Baker's Executive Order of March 12, 2020, due to the current State of Emergency in the Commonwealth due to the outbreak of the COVID-19 Virus.

In order to mitigate the transmission of the COVID-19 Virus, the Town of Arlington has been advised and directed by the Commonwealth to suspend public gatherings, and as such, the Governor's Order suspends the requirement of the Open Meeting Law to have all meetings in a publicly accessible physical location. Further, all members of public bodies are allowed and encouraged to participate remotely.

The Order, which you can find posted with agenda materials for this meeting, allows public bodies to meet entirely remotely so long as reasonable public access is afforded so that the public can follow along with the deliberations of the meeting.

Ensuring public access does not ensure public participation unless such participation is required by law. This meeting will have one public comment period, at the end of the meeting. If you would like to comment during one of the public comment periods, please use the "Raise Hand" function if on a computer, or "Dial \*9" if on the phone. When your name or phone number is called, and you are unmuted, please state your name and provide your comment. All attendees during the public comment period will be afforded 3 minutes for any comments.

For this meeting, the Board of Health is convening by telephone and computer conference via Zoom as posted on the Town's Website identifying how the public may join.

Only Health Department staff will be able to share their screen during this meeting. Board Members and Department Staff may be participating by video conference. Accordingly, please be aware that other folks may be able to see you. Anything that you broadcast may be captured by the recording.

All of the materials for this meeting are available on the Novus Agenda dashboard, and I recommend that Board Members and the public follow the agenda as posted on Novus unless otherwise noted. Members of the public are encouraged to provide written public comments.

Before we get to today's agenda, I am going to cover some ground rules for effective and clear conduct of our business and to ensure accurate meeting minutes.

Dr. Marie Walsh-Condon, the Board Chair, will introduce each agenda item. After the item is presented, she will go down the list of Board Members, inviting each by name to provide any comment, questions, or motions. Please hold comments or questions until your name is called and you are unmuted. For any response, please wait until the Chair yields the floor to you, and state your name before speaking. Deputy Town Counsel, Michael Cunningham, will lead each vote taken during this meeting.

Finally, each vote taken during this meeting will be conducted by roll-call vote.

Dr. Walsh Condon, can you please now review today's agenda. Floor yielded to Dr. Marie Walsh Condon.

Dr. Walsh Condon welcomed everyone to today's Board of Health meeting.

## **2. Acceptance of Meeting Minutes from December 1, 2021**

Dr. Marie Walsh Condon indicates this agenda item will be tabled until next meeting.

## **3. DISCUSSION: 2022 Board of Health Meeting Schedule**

Dr. Marie Walsh Condon will not be able to be on the July 20, 2022. She proposes to discuss offline actions for this meeting.

Mr. Kohlberg indicates the schedule is okay, and can move dates.

Dr. Kevin Fallon indicates the schedule is okay.

## **4. HEARING: Appointment of Rotem Aloni as Agent of the BOH**

Mr. Pat Martin introduces the appointment of Rotem Aloni as part of the regional tobacco collaborative. The program is now based out of Norwood Health Department. Ms. Aloni has been hired as the program coordinator. Mr. Martin recommends the approval of Ms. Aloni as an agent of the Board of Health.

Ms. Rotem Aloni introduces herself as the program coordinator for the Tobacco Control Program Coordinator. Her role is to support towns with tobacco control, regulation updates, and compliance checks. She has been in the roll for three months.

No questions from the Board.

Mr. Kohlberg makes a motion, seconded by Dr. Condon

- Marie, Aye
- Kevin, Aye
- Ken, Aye
  
- Approved Unanimously (3-0)

**5. HEARING: Tobacco Permit – Galaxy Market**

Ms. Annette Curbow reviews the 36-month history of non-compliance for Galaxy market. Galaxy market is before the Board today for a determination on the issuance of their 2022 Tobacco Permit.

Farah and Shajid, Galaxy Market owners, introduce themselves and indicate that they have paid all fines and completed training. They speak to the fact that they are still hoping to sell the business, but without the tobacco permit, they are unable to find an interested buyer.

Dr. Marie Walsh-Condon is concerned about the repeat violations. She feels that it would be unfair to other businesses in town that have maintained compliance with all regulations.

Mr. Ken Kohlberg has no comments.

Dr. Fallon is aware of the difficulty of selling the business, and understands they have paid their fines and taken the trainings. Dr. Fallon believes they could be afforded a second chance.

Dr. Walsh-Condon indicates that they can provide a temporary permit, contingent upon the sale of the business.

Ms. Natasha Waden states that if the Board wanted to grant a temporary permit, it could be done on a quarterly basis. At the end of each quarter, they may be brought before the Board.

Mr. Kohlberg agrees with Dr. Fallon that they should be given a second chance. Mr. Kohlberg believes that 3 months is a short period of time for a temporary permit. Mr. Kohlberg wonders if this needs to be approved contingent upon selling the business. He does not believe this should be a qualifier.

Dr. Condon is inclined to deny the application based on the number of violations over the years. Dr. Condon feels that it is not fair to other businesses that have been compliant and is concerned about the sale to minors.

Dr. Fallon maintains that a temporary permit sounds good. He is unsure how the Board would handle temporary permission if they are unable to sell the business in three months.

Ms. Waden offers that if sold, the new owners would be able to apply for the permit. It's possible the fee could be adjusted to the potential buyer.

Owners report that they have taken this past year and learned from their mistakes. They have ensured that they have removed all tobacco products from their store and are taking closer oversight of employees.

Deputy Town Counsel Michael Cunningham invites members of the public who would like to make comment about this particular matter.

No public comments.

Motion made by Dr. Fallon to grant a temporary permit that would expire after quarter 1 of this calendar year, which is seconded by Ken Kohlberg

- Marie, No
- Dr. Fallon, Aye
- Mr. Kohlberg, Aye

Motion Passes (2-1)

The office will reach out regarding next steps.

#### **6. UPDATES: Environmental Health**

Mr. Pat Martin indicates that environmental health has been quiet as is typical at this time of year. He mentions that a lot of the staff has been focused on COVID-19 efforts.

#### **7. UPDATES: Restaurants**

Mr. Pat Martin states that permit renewals have been completed. The restaurant Twirl Pasta Bistro has closed and Fattoush has opened. Anthony's Eastside Deli has had a change of ownership

#### **8. UPDATES: COVID-19 Situational Update/ Public Health Nurse Update**

Public Health Nurse, Jessica Kerr reports that Arlington has had just under 4500 cases of COVID-19

- Oct – 117 cases
- Nov – 222 cases
- Dec – 885 cases
- To date in January – 1625 cases

These are the numbers of laboratory reported cases. With home tests, this is likely an undercount of the true number of cases. We know through our partners that there are far more cases.

At this point about 83% of our population are fully vaccinated, 52% boosted.  
In 2021 we vaccinated over 6500 residents.

We continue to contact trace on a smaller scale. We prioritize by most recent infection, school-age children, and congregate living settings. Both DESE and EEC have released new guidelines which are being followed by APS and childcare providers.

We hosted a webinar for childcare providers to review guidelines and answer questions. We know that most of their population has not been able to be vaccinated, so we wanted to take the opportunity to support their efforts.

We have been running a testing program for the public at town hall. We have hosted some additional booster clinics and tomorrow we are holding a flu clinic.

Dr. Walsh Condon thanks the staff for their hard work

Mr. Ken Kohlberg has no comments, thanks Jessica and the staff.

Dr. Kevin Fallon has no comments and we have an amazing team.

## **9. DISCUSSION: Mask Mandate**

Director Natasha Waden reviews that the BOH adopted a public health mask mandate effective August 19, 2021. Which requires face coverings for all persons at all times when inside public or private spaces that are open to the public. This mandate applies to all persons age 2 years and over except when an individual is unable to wear a face covering due to a medical condition or disability. In accordance with the mandate, this will be in effect whenever the level of community transmission data from the CDC for Middlesex County is categorized as substantial or high for a consecutive two week period. This mandate will no longer be in effect when the level of community transmission data from the CDC for Middlesex County is categorized as either low or moderate over a consecutive two-week period.

According to the CDC data Middlesex County is a community where level of transmission has remained high since our last meeting in December. As such the mask mandate for Arlington would remain in effect. Additionally, the town of Arlington has had over 800 cases of COVID 19 in Dec and over 1600 to date in the month of January. That data does not include the number of home tests done. In reviewing the MWRA data it does appear that the spike due to omicron is receding. Recommends we re-visit the mandate in the next meeting as we continue to track the data.

Dr. Condon invites public to submit questions to [boh@town.arlington.ma.us](mailto:boh@town.arlington.ma.us). As a physician who has been taking care of COVID-19 patients, she reminds folks that there is no one action that we can take that will one hundred percent prevent transmission. Wearing a mask is one layer, getting vaccinated is another, social distancing is another, and ventilation is yet another. Using all methods of prevention are our steps to limit transmission and move forward. The data is

promising that cases are decreasing, and the hope is that soon the data will cause the mandate to expire. She agrees to continue discussion at the next meeting.

Mr. Ken Kohlberg has no comments.

Dr. Kevin Fallon has no comments.

## **10. DISCUSSION: Proof of Vaccination**

Director Waden reviews that last month when we received information that the City of Boston was entertaining the idea of limiting only individuals who are vaccinated against COVID 19 into certain indoor spaces; businesses such as indoor dining facilities including bars and nightclubs, indoor fitness facilities and indoor entertainment venues. Town leadership asked the Health Department to bring this matter before the Board of Health to discuss whether or not a similar requirement in Arlington would be appropriate. The purpose of this discussion is to provide the Board with information about Boston's program, Arlington's vaccination status and determine if the Board of Health would like to entertain the idea of a vaccine requirement. Everyone is reminded that a vote will not take place tonight this is just a discussion. If the Board decides to move forward with this type of requirement the next steps would be that the Health Department create a draft which would then be brought before the Board for a hearing.

Director Waden reviews Boston's requirements as of Jan. 15 which states: people are required to show proof of vaccination for COVID 19 to enter indoor dining, bars, night clubs, indoor fitness, and indoor entertainment. Employees are also subject to the requirement. Businesses are asked to enforce the mandate by checking vaccine status and posting a notice visible to customers. Proof of vaccination must be a CDC vaccination card, digital image, or image of any official vaccination record. Director Waden reviews the timeline of requirement. Director Waden reviews the support that Boston has provided to businesses.

In Arlington 93% of eligible residents have had at least one dose, 83% are fully vaccinated. Director Waden also notes that the business makeup of Arlington is very different than that of Boston.

Dr. Condon thanks all who have submitted comments via e-mail to the BOH. They have been reviewed and there were interesting points on both sides. She reiterates that there will be no vote today.

Dr. Condon personally feels that a vaccine mandate is not appropriate for Arlington. Dr. Condon wishes to be clear that vaccines are an important tool for getting through this pandemic and wants to encourage everyone to get vaccinated.

Dr. Condon feels that the time and logistics needed for the Health Department and businesses to implement this program would take away from other important efforts. She believes that the time and energy spent offering clinics to those in need is more important. Making additional time available for vaccinations is critical to continuing past the pandemic.

There are a lot of complicating factors regarding showing proof of vaccination. A lot of people during the surge of omicron were treated with antivirals and monoclonal antibodies which make them ineligible for 90-days to receive the vaccine. The state app to show proof of vaccination has also resulted in a lot of technical issues. It is really important for us to continue educating the Town, providing testing, and providing opportunities for vaccination. The Health Department can offer resources for businesses who wish to implement a requirement, but don't feel it is right for all businesses.

Mr. Kohlberg would like to thank everyone who took the time to submit their comments to the Board. We listen to everyone from Arlington and neighboring towns to inform our decisions.

Dr. Fallon agrees with Dr. Condon's summary. Reading through all the public comments, there were good points presented on both sides of the discussion. All of these points are taken into consideration.

Director Waden summarizes that all three Board members are not interested in moving forward with a vaccine requirement.

#### **11. HEARING: Mask Mandate Violation – Susan's Barber Shop**

Mr. Pat Martin summarizes the BOH approved a mask mandate for all indoor settings. Since this went into effect the Arlington Health Department has received complaints regarding Susan's Barbershop. On September 2, 2021, Health Compliance Officer Ashley Jean conducted an inspection of Susan's and found the establishment to be out of compliance with the mandate. An order to correct was issued on September 23, 2021 and subsequent inspections on October 21<sup>st</sup> and October 26<sup>th</sup> and December 14<sup>th</sup>, 2021 resulted in further violations. A notice of violation and fine was issued on December 15, 2021 due to the repeated failures of Susan's Barbershop to comply with the mask mandate. Since this notice of violation our department has conducted additional inspections where non-compliance was documented. On December 20, 2021 Susan's Barbershop requested a hearing with the Board of Health.

Susan Rossi, Susan's Barbershop owner, introduces herself. Ms. Rossi indicates they have been doing their best to comply. She knows that there have been a few times where the Board of Health has come by while staff were doing beard trims. Ms. Rossi clarified that the customer observed last Wednesday was getting a beard trim and is allowed to take their mask off for this purpose. Ms. Rossi stated that the establishment has mask and sanitizer for the public and also utilizes an air purifier. Ms. Rossi was not aware of the previous specific complaints and therefore could not comment on why masks were not being worn.

Dr. Condon reviews that the most recent violation (associated with the beard trim from last week) should be e

Dr. Condon's opinion on the matter is that there may be some leniency on the most recent fine with the beard trim, but should the other documented violations should be upheld. Dr. Condon believes that other businesses in town have made difficult adjustments to comply. It is not fair to excuse violations when others have worked so hard.

Mr. Ken Kohlberg, no questions or comments.

Dr. Kevin Fallon asked Ms. Rossi if she had any customers or employees in the shop with no masks in the last 3 months.

Ms. Rossi says that she is only aware of those who were getting a beard trim. Dr. Fallon asked if Ms. Rossi wears a mask. She replied yes.

Dr. Condon asks Ashley Jean who conducted the inspections to comment on her findings. Ms. Ashley Jean reports her last inspection was a few days after the first notice was sent. Mr. Cameron Bishop and Ms. Annette Curbow had also performed additional inspections.

Ms. Jean states that when she received the complaint of the first violation, she performed an inspection and observed Ms. Rossi, staff and customers not wearing masks. Ms. Jean provided education on the mask mandate in town and asked her to comply. Ms. Rossi declined to comply with the mask mandate. As a result, Ms. Jean followed up with her supervisors.

Mr. Bishop reports that on his inspections he observed all employees either wearing their masks incorrectly or not at all. The same observations were made regarding customers. Mr. Bishop noted that on his last inspection (last week) the two customers in the shop were not wearing masks. This may be the instance in which Ms. Rossi is referring to in regards to beard trims.

Ms. Curbow reports that she conducted two inspections, one with Ms. Jean (the initial inspection) and one with Mr. Bishop. In both cases, she observed both employees and customers not wearing masks correctly.

Ms. Rossi clarifies the beard trim was during the month of January.

Mr. Ken Kohlberg, no comments

Dr. Kevin Fallon, no comments, but would like to know if Deputy Town Counsel has any questions.

Deputy Town Counsel Michael Cunningham, no questions.

Dr. Condon invites public comment specifically related to the violations at Susan's Barber Shop. Three minutes will be afforded to anyone who wishes to comment.

Director Waden reads in a written comment from Gina Carme.

Mark Kaepplein, would like to say that Susan is operating in compliance with the science and the data. In the past two years there has been a lot of data compiled, even from John Hopkins. There is no value in masking against COVID. Throughout the world, state after state, mask mandates and respirator mandates have been shown ineffective. Dr. Condon reminds Mr. Kaepplein that the time for mask mandates is later. This is for comments on Ms. Rossi's appeal. Mr. Kaepplein says that yes, the mask mandate relying on tattletales and snitches has been created. He would like to know if Arlington's data shows how effective mask mandate is.

Mr. Cunningham reminds that the merits of the mask mandate are not being heard at this time. Comments may be regarding any information regarding whether or not violations occurred at Susan's Barbershop.

Eileen Cahill asks what the fee schedule is for mask violations. Dr. Waden reminds that for the purpose of this hearing, all questions will be considered rhetorical. Eileen does not believe that the owner has control over what a customer does. She believes that it would be a violation of HIPPA if she asks why they aren't wearing a mask. Eileen does not believe the BOH has authority to fine the shop under the state sanitary code.

Robert Goodwin, chairman of Arlington anti mask committee. Does not know Susan but believes Susan has right to face accusers who were writing on the Arlington List. He believes that she did not commit a violation.

Mr. Cunningham reminds that it is at the discretion of the Chair to end comments that are not related to the question as to whether violations occurred. Any unrelated comments may be ended.

John Haible, requests that the Town issue citations to the customers and employees who are not wearing masks.

Samita Patel, is a café manager at Roasted Granola and would like to comment about people referring to those who reported non-compliance as snitches. We have never had a problem with people wearing masks in our business. There have been no issues and it doesn't seem to be an issue in Arlington.

Michelle Orfanos, asks how much Susan was fined. Michelle believes that it's difficult for these store owners in Arlington, specifically with the pandemic, to get through the year. Michelle would like to thank Susan for staying open, she believes that compliance officers conducting checks are increasing division, that instead it should have been a conversation with.

Karen McLain states that there is not much difference between sitting in a restaurant without a mask than at a barbershop. Ms. McLain believes we need to move beyond the masks.

Rich Pelitier, states that he is a regular at Susan's Barber Shop and has never seen a violation. Asks why there was no point of order for when the Roasted Granola was talking about what they do in their establishment.

Barbara Bolek (Bilinska) states that sending people to check on compliance is horrible. Would like to ask if the inspectors approach those without masks and ask if they have a medical exemption or not, because these people might have not be able to wear one.

Mr. Cunningham reminds Dr. Condon that this is public comment; it is not an opportunity for questions. It is strictly to provide relevant information to the Board members so they can make an informed decision about these specific violations.

Jason Murray is a patron of Susan's barbershop and has not noticed on any occasion, anyone without a mask. He does not know what other people have done, but does acknowledge some people may have medical or religious exemptions and doesn't know if that has been accounted for in this situation.

Mary Santos wants to know what law it is that someone has to wear a mask. Deputy Town Counsel responded that there was and is a public mask mandate (validly passed by the Board in August,) which according to public health documents the owner of Susan's Barber Shop was informed of. Additional statutory support can be found in GL 111 s 31, and enforcement provisions are found in GL 40 and 21 D. as well as support within town of Arlington bylaws Title 8, article 3 section 6.

Dr. Condon asks Ms. Jean to confirm whether or not there was an attempt to educate the owner and/or staff about the mask mandate prior to the issuance of fines. Ms. Jean confirmed that information as provided.

Dr. Condon does not feel any grounds for reversing the fines that have been levied were provided.

Mr. Kenneth Kohlberg, no questions.

Dr. Fallon reviews: on 9/2, owner and customer were unmasked and BOH spoke with her requesting compliance and she stated "I will not wear a mask and will not require customers to wear a mask" 9/24, BOH delivered an order to comply. Two times in October, in December, and in January the owner was again observed unmasked with unmasked customers. Dr. Fallon states he would uphold the fine.

Dr. Fallon makes a motion to deny the appeal, seconded by Mr. Kohlberg.

- Dr. Marie Walsh Condon, Aye
- Dr. Kevin Fallon, Aye
- Mr. Kenneth Kohlberg, Aye

Motion passes, appeal is denied (3-0)

#### **PUBLIC COMMENT:**

Dr. Condon states that each attendee will be allowed 3 minutes.

The following is a list of individuals who spoke during public comment:

- Simon Proekt
- Gina Carme
- David Cain
- Mark Kaepplein
- Rebecca Bentleon
- John Haible

- Delores McGee
- Eileen Cahill
- Diana Ploss
- Robert Goodwin
- Joseph Lekach
- Stephen Helfer
- Paula Soto
- Michelle Orfanos
- Karen McLaine
- Jonathan Santos
- Kathy Sumner
- Emily Shea

Dr. Condon thanks everyone for the important discussion and dialogue. Comments or questions can be submitted to the Board of Health.

Director Waden states that additional questions or comments can be submitted to [boh@town.arlington.ma.us](mailto:boh@town.arlington.ma.us). We will do our best to answer those questions.

Dr. Condon states over the next month we will continue to watch data.

Dr. Condon motion to adjourn, Mr. Fallon seconded

- Dr. Condon, approve
- Dr. Fallon, approve
- Mr. Kohlberg, approve

Meeting adjourned at 7:46pm



Town of Arlington  
Department of Health and Human Services  
Office of the Board of Health  
27 Maple Street  
Arlington, MA 02476

Tel: (781) 316-3170  
Fax: (781) 316-3175

## BOARD OF HEALTH MEETING AGENDA

Date: Wednesday, February 16, 2022  
Time: 1:00 pm  
Location: Conducted by Remote Participation

In accordance with the Governor's [Order Suspending Certain Provisions of the Open Meeting Law, G. L. c. 30A, § 20](#) relating to the COVID-19 emergency and subsequent [Act Extending Certain COVID-19 Measures Adopted During the State of Emergency](#), the February 16, 2022 public meeting of the Arlington Board of Health shall be physically closed to the public to avoid group congregation. The meeting shall instead be held virtually using Zoom.

***Public access to this meeting shall be provided in the following manner:***

Real-time public comment can be addressed to the Board of Health utilizing the Zoom virtual meeting software for remote participation. This application will allow attendees to request an opportunity for public comment, and allow the Board Chair to grant attendees the opportunity for public comment. Attendees can use either phone or computer to participate in the meeting. Public comment can also be sent in advance of the meeting by emailing the Board of Health at [boh@town.arlington.ma.us](mailto:boh@town.arlington.ma.us) by no later than 5pm on February 15, 2021. Submitted public comment will be read into the record at the appropriate points in the meeting.

***Zoom Login instructions:***

Instructions and the meeting link for this specific meeting can be found on the [Board's agenda and minutes page](#) or on the [Town's meeting calendar](#). The meeting registration information is listed below. When attendees enter the meeting, they will be placed into a virtual waiting room. Attendees will be admitted into the meeting from the waiting room at the start of the meeting.

Please register in advance for this meeting:

<https://town-arlington-ma-us.zoom.us/join/tzEvcmtrT8tHNxOh6BhpmWO9IhWaDzMtwRN>

After registering, you will receive a confirmation email containing information about joining the meeting  
**On this agenda:**

### 1. Administrative

Natasha Waden provided the following opening statement: Good Afternoon, this is Natasha Waden, Public Health Director for the Town of Arlington. Consistent with the Governor's orders suspending certain provisions of Open Meeting Law and allowing us to adhere to social distancing requirements during the COVID-19 crisis, this Town of Arlington Board of Health Meeting is being held virtually via

Zoom for audio and video participation of Board Members and the public. When you entered this meeting, you were automatically muted. During this meeting you will be unmuted individually as needed. These controls are in place to ensure that today's meeting is safe and effective. At this time, I would like to confirm that all members and persons anticipated on today's agenda are present and can hear me.

Board Members, when your name is called, please respond in the affirmative.

1. Dr. Marie Walsh Condon, Aye
2. Dr. Kevin Fallon, Aye

Health Department Staff, please respond in the affirmative when your name is called.

1. Diana DeStefano, Absent
2. Jessica Kerr, Aye
3. Pat Martin, Aye
4. Annette Curbow, Aye
5. Cameron Bishop, Aye
6. Natasha Waden, Aye
7. Christine Bongiorno, Aye

Deputy Town Counsel

1. Michael Cunningham, Aye

Applicants and representatives, do we have anyone on the call representing an application?

1. William Davis- Body Art Practitioner Applicant, unable to respond
2. James Quinn- Owner of Ink Jam, Aye
3. Janella Mele Beaudoin- Apprentice Applicant at Ink Jam (Variance Request), Aye

Thank you everyone.

As stated, this Open Meeting of the Arlington Board of Health is being conducted remotely consistent with Governor Baker's Executive Order of March 12, 2020, due to the current State of Emergency in the Commonwealth due to the outbreak of the COVID-19 Virus.

In order to mitigate the transmission of the COVID-19 Virus, the Town of Arlington has been advised and directed by the Commonwealth to suspend public gatherings, and as such, the Governor's Order suspends the requirement of the Open Meeting Law to have all meetings in a publicly accessible physical location. Further, all members of public bodies are allowed and encouraged to participate remotely.

The Order, which you can find posted with agenda materials for this meeting, allows public bodies to meet entirely remotely so long as reasonable public access is afforded so that the public can follow along with the deliberations of the meeting.

Ensuring public access does not ensure public participation unless such participation is required by law. This meeting will have one public comment period, at the end of the meeting. This meeting will have two public comment periods - one at the end for the general public, and during the hearings for the variance applicants. If you would like to comment during one of the public comment periods, please use the "Raise Hand" function if on a computer, or "Dial \*9" if on the phone. When your name or phone

number is called, and you are unmuted, please state your name and provide your comment. All attendees will be afforded 3 minutes for any comments.

For this meeting, the Board of Health is convening by telephone and computer conference via Zoom as posted on the Town's Website identifying how the public may join.

Only Health Department staff will be able to share their screen during this meeting. Board Members and Department Staff may be participating by video conference. Accordingly, please be aware that other folks may be able to see you. Anything that you broadcast may be captured by the recording.

All of the materials for this meeting are available on the Novus Agenda dashboard, and I recommend that Board Members and the public follow the agenda as posted on Novus unless otherwise noted. Members of the public are encouraged to provide written public comments.

Before we get to today's agenda, I am going to cover some ground rules for effective and clear conduct of our business and to ensure accurate meeting minutes.

Dr. Marie Walsh Condon, the Board Chair, will introduce each agenda item. After the item is presented, she will go down the list of Board Members, inviting each by name to provide any comment, questions, or motions. Please hold comments or questions until your name is called and you are unmuted. For any response, please wait until the Chair yields the floor to you, and state your name before speaking.

Finally, each vote taken during this meeting will be conducted by roll-call vote. Deputy Town Counsel, Michael Cunningham will conduct roll- call votes during today's meeting.

Dr. Walsh Condon, can you please now review today's agenda. Floor yielded to Dr. Marie Walsh Condon.

Dr. Walsh Condon welcomed everyone to today's Board of Health meeting.

## **2. Acceptance of the December 15, 2021 Meeting Minutes**

There were no corrections noted on the meeting minutes.

A motion is made by Dr. Kevin Fallon, which is seconded by Dr. Marie Condon, to approve the minutes as written. Deputy Town Counsel Michael Cunningham conducted a roll-call vote:

- Dr. Kevin Fallon. , Aye
- Dr. Marie Condon, Aye

Approved unanimously (2-0)

Dr. Marie Condon acknowledged that the meeting minutes from the previous Board of Health meeting in January were not available for review. She further stated that it is the Board's expectation that meeting minutes will be completed in a timely manner and ready for review and approval by the board immediately following meeting.

Director Waden apologized for the delay and stated moving forward she would make sure the meeting minutes are ready in a timelier manner.

### **3. Hearing: William Davis- Body Art Practitioner Applicant**

Health Compliance Officer Annette Curbow provided an overview of the body art practitioner application received by Mr. William Davis who is looking to practice body art (tattoo) at Benchmark Tattoo located at 1340 Mass Ave. Mr. Davis had technical difficulty with his audio connection, therefore Jonathan Santos, owner of Benchmark Tattoo spoke on his behalf. Mr. Santos stated that Bill (William) has 4 years of experience including an apprenticeship in the City of Salem, believes he is an up and coming artist, does great work, would be a great addition to Benchmark.

Health Compliance Officer Annette Curbow recommends that Mr. Davis's application to practice Body Art at Benchmark Tattoo be approved by the Board.

There was no public comment.

A motion is made by Dr. Kevin Fallon, which is seconded by Dr. Marie Condon, to approve the minutes as written. Deputy Town Counsel Michael Cunningham conducted a roll-call vote:

- Dr. Kevin Fallon. , Aye
- Dr. Marie Condon, Aye

Approved unanimously (2-0)

### **4. Hearing: Variance Request- Ink Jam**

Health Compliance Officer Cameron Bishop provided a summary of the variance request submitted by James Quinn and Jenella Mele Beaudoin. The applicants are seeking a variance from the Body Art regulations which requires the practitioner, Ms. Mele Beaudoin, to have at least 2 years of experience in the field of tattooing. Mr. Quinn, owner of Ink Jam, is proposing that Jenella work under his authority, as an apprentice, so that she can acquire the necessary 2 years of experience to eventually become a practitioner.

There was no public comment.

A motion is made by Dr. Kevin Fallon, which is seconded by Dr. Marie Condon, to approve the minutes as written. Deputy Town Counsel Michael Cunningham conducted a roll-call vote:

- Dr. Kevin Fallon. , Aye
- Dr. Marie Condon, Aye

Approved unanimously (2-0)

### **5. Updates: Environmental Health Updates**

Lead Health Compliance Officer Pat Martin reports that the office has recently had to condemn 2 properties for hoarding like conditions in which the staff has worked closely with the Council on Aging and Arlington Police Department. Mr. Martin also provided an update on 1530 Mass

Ave, stating that the Attorney General's (AG's) Office has been assisting with this case and recently provided the owner with a deadline of April 1<sup>st</sup> to clean up the exterior of the property. If the property is not in compliance the AG's Office anticipates moving forward with the process to appoint a receiver to bring the property into compliance.

**6. Updates: Restaurants**

Lead Health Compliance Officer Pat Martin reports that there have been no additional openings or closures of restaurants in town.

**7. Updates: COVID-19 Situational Update**

Public Health Nurse Jessica Kerr reports that there have been 5,538 case of COVID-19 to date in Arlington. In the month of January there were 1,744 new cases, and to date in February there have been 171 new cases. Ms. Kerr further reported on the number of cases for the past four weeks stating that in the 3<sup>rd</sup> week of January there were 295 new cases, in the 4<sup>th</sup> week of January there were 161 new cases, in the 1<sup>st</sup> week of February there were 105 new cases, in the 2<sup>nd</sup> week there were 53 new cases, and so far this week there have been 13 new cases. Ms. Kerr also stated that in the past 2 weeks the department has not had more than 25 cases per day. Ms. Kerr informed that Board that she would no longer be reporting on the number of breakthrough cases because with the increase in availability for home test kits and the inability to get data on those results and compare them with the Immunization data in the State system, there is no way for the department to determine how accurate breakthrough case data might be. Ms. Kerr informed the Board that the department continues to conduct testing for both employees and the general public at Town Hall Monday-Thursdays, and has been running COVID-19 and Flu vaccination clinics on a weekly basis. Finally, Ms. Kerr introduced David Neylon, our new Public Health Nurse.

**8. Updates: Public Health Nurse Update**

There were no additional public health nurse updates.

**9. Discussion: In Person Meetings**

Public Health Director, Natasha Waden recommended that the Board meet virtually in March and continue to review the meeting mode. Waden stated that currently, the ability to meet virtually is scheduled to expire in April, so it will be important to wait for any additional guidance from the state and/or federal government concerning this matter. Both Dr. Condon and Dr. Fallon agreed to this suggestion.

**10. Hearing: Mask Mandate**

Public Health Director Natasha Waden provided an overview of how and why the mask mandate was implemented by the Board of Health on August 19, 2021. Waden informed the Board of many changes that have occurred in the last 6 months such as increase access to testing and Covid-19 vaccination and booster shots. Waden explained that this along with data from the CDC, Mass Department of Public Health, MWRA waste water, and Mass Medical society, has prompted a desire by the Board of Health to hold a hearing to discuss the status and possible rescinding of Arlington's mask mandate. Waden further stated that the CDC Community

Transmission Data, the key metric used to determine when to lift the mandate, no longer seems to be the most accurate data point to use in this determination because it is based off of PCR test results and does not account for antigen or at home test results. It may be assumed that people seeking a PCR test are likely aware that they are positive, but seeking a confirmatory result. With higher vaccination rates in Arlington, as compared to the State and Middlesex County; decreased hospitalization rates, and the decreasing detection of RNA in waste water in Middlesex County, Waden recommended that the Board lift the mask mandate in Arlington effective immediately. Waden clarified that despite DESE's decision to lift the state wide mask mandate in schools on February 28<sup>th</sup>, Arlington Public Schools in conjunction with the School Committee are still discussing this policy.

Dr. Marie Walsh-Condon supports the recommendation and believes that we are in a different space than we were a month ago when Covid-19 cases were high and access to testing was limited. Dr. Walsh-Condon also acknowledged that the context of the CDC transmission data has changed and whereas the Town has implemented good prevention strategies (Covid-19 vaccination & booster shots); there is more availability for testing; additional treatment options for Covid-19; and capacity at medical facilities allows for elective surgeries and such to resume; the time has come to consider lifting the mask mandate. Dr. Walsh-Condon also advises that this is not a time to throw caution into the wind, rather that individuals should pay close attention to the situations they are in, use caution when necessary, and consult with their health care providers about their specific situations and how to best protect themselves.

Dr. Kevin Fallon also supports the recommendation citing that information from MDPH and the MWRA waste water are indicative that it is a good time lift the mask mandate.

#### Public Comment:

Barrie Tysko- parent of students at Stratton Elementary School, asked that when looking to rescind the mask mandate that the Board consider the CDC benchmarks for community level transmission, that in school mitigations that are supposed to be in place are not followed (observations by parents and students) and need to be followed all of the time, and that there be an "on ramp" for what it would like when/if indoor masking returns.

Rebecca Peterson- spoke in support for the Board to rescind Arlington's mask mandate in hopes that the School Committee will follow suit.

Beth Hawkins, NP at Children's Hospital and parent to elementary school students. Spoke in support for the Board to rescind Arlington's mask mandate citing children's mental health as a concern.

Brian Corcoran, parent to elementary school students at Hardy. Spoke in support for the Board to rescind Arlington's mask mandate

Jessica VonGoelar, parent to a child at Gibb's Middle School. Spoke in support for the Board to keep the mask mandate in place and provide direction to the schools to maintain their mandates until at least March 30<sup>th</sup>.

Karen McLaine, Arlington resident. Spoke to the Board about the need for better communication to residents and business owners about requiring a mask mandate and indicated that a phone notification similar to a snow emergency should be utilized when communicating this information.

Bob Sheehan, parent of children in Arlington Public School System. Spoke in support of ending the mask mandate.

Mark Kapplein, Arlington resident. Spoke in support for the Board to rescind Arlington's mask mandate and specifically mentioned the importance of reviewing the amount of Covid-19 virus in waste water data and its recent decline. Mr. Kapplein also clarified from the previous meeting that he does not support the use of cloth or surgical masks; he only supports the use of N-95 masks for those who need them.

Gina Carme, Arlington resident. Spoke in support of lifting the mask mandate and her concerns about the MAVEN system as it relates to the number of Covid-19 deaths reported as compared to the data from the Mass Department of Health, office of vital statistics.

Michelle Orfanos, Arlington resident. Spoke in favor of rescinding the mask mandate; however she is concerned about how and why the mask mandate was enacted in the first place and the fact that only 2 citizens were present. Ms. Orfanos also mentioned her concerns about the CDC and other 3 letter agencies (FDA, WHO) and their failure to put out the truth and be transparent about the data and how it is affecting children.

Jeffery Miller, Arlington resident and parent of two children. Spoke in support of rescinding the mask mandate as soon as possible and the importance of weighing the costs and benefits associated with mask mandates. Mr. Miller elaborated on the costs related to mental health, vibrancy and viability of businesses in town, and the quality of life in Arlington.

John Haible, had a question about surety bonds associated with the Board of Health and/or School Committee.

Simon Proekt, Arlington resident. Spoke in favor of rescinding the mask mandate and mentioned that mask mandates are detrimental for children with developmental delays.

Eileen Cahill, Arlington resident. Spoke in favor of rescinding the mask mandate. Concerned about how it was implemented and wants the public to be more involved.

Delores, spoke in support of rescinding the mask mandate and believes mask mandates have had negative impacts on children, people's livelihoods and relationships, as well as the communities.

Susan Stamps, Arlington resident. Spoke in support of the Board of Health for keeping the community safe.

Anna Giacoma, Arlington resident. Spoke in support of rescinding the mask mandate. Ms. Giacoma referred to a study by John Hopkins finding that lockdowns and other measures reduce

mortality rates by 0.2%. Ms. Giacomo also spoke about the negative effects masks have had on children.

John Vongoeler, parent of 6<sup>th</sup> grader in Arlington. Spoke in support of the mask mandate stating that he see's children coming out of school still wearing their masks and he hasn't seen the distress on children that many people on the meeting have been talking about. He also clarified that John Hopkin's study mentioned by the previous speaker was a highly published study on Fox News and the Daily Mail which was debunked. He further stated that there has been substantial scientific evident that mask have been effective and that extending the mandate statistically would save lives.

Emily Shea, Arlington resident and owner of Kickstand Café. Spoke in support of rescinding the mask mandate but would like the Board to consider a small delay such as 48 hours so that businesses can make adjustments on their requirements and communicate effectively to their customers and staff.

Maura Maccloud, Arlington Resident and mother of 4 children, including her son Kevin who has Down syndrome and was present with her virtually. Spoke in support of ending the mask mandate stating her concerns about how it has negatively impacted the learning process for her child and other children with development delays.

Motion made by Dr. Kevin Fallon, which is seconded by Dr. Walsh-Condon to rescind the mask mandate effective immediately.

- Dr. Kevin Fallon, Aye
- Dr. Marie Walsh-Condon, Aye

Approved unanimously (2-0)

Deputy Town Counsel, Michael Cunningham, makes a point of clarification. States that although by vote of the Board of Health the mask mandate has been rescinded, the decision on whether or not the Arlington Public schools will act accordingly will be made by the School Department.

## **11. Public Comment**

Motion made by Dr. Kevin Fallon, which is seconded by Dr. Walsh-Condon to adjourn the meeting

- Dr. Kevin Fallon, Aye
- Dr. Marie Walsh-Condon, Aye

Approved unanimously (2-0)

Meeting adjourned at 2:33 pm.



Town of Arlington  
Department of Health and Human Services  
Office of the Board of Health  
27 Maple Street  
Arlington, MA 02476

Tel: (781) 316-3170  
Fax: (781) 316-3175

**MEMORANDUM**

To: Board of Health  
From: Pdraig Martin, Lead Health Compliance Officer  
Date: March 11, 2022  
RE: Galaxy Market Tobacco Permit

---

Galaxy market applied for an obtained their Retail Tobacco Sales Permit from the Arlington Board of Health in January 2002. Since then, The Arlington Board of Health has received 11 complaints from parents, Arlington Police, and Arlington Public schools regarding suspected violations of the Arlington Regulation Restricting the Sale of Tobacco Products and Nicotine Delivery Products. Since 2012, Galaxy market has failed seven (7) compliance checks. Five (5) of these failed compliance checks occurred within the last 36 months.

- On December 1, 2020, Galaxy Market was cited for offering for sale a flavored nicotine delivery product. *\$1,000 Fine*
- On June 9, 2021, Galaxy Market was cited for the sale of tobacco product to a person under the minimum legal sales age *\$2,000 fine and a 14-day suspension*
- On June 22, 2021, Galaxy Market was cited for offering for sale a flavored nicotine delivery product. *\$5,000 Fine and a 30-day suspension*
- August 10, 2021, Galaxy Market was cited for the failure to remove all tobacco products and nicotine delivery products from the retail establishment upon suspension of the Tobacco and Nicotine Delivery Product Sales Permit *\$5,000 fine and 30-day suspension*
- On September 1, 2021, Galaxy Market was cited for the failure to remove all tobacco products and nicotine delivery products from the retail establishment upon suspension of the Tobacco and Nicotine Delivery Product Sales Permit *Suspension through December 31, 2021 and required hearing for a 2022 permit.*

Galaxy Market was also cited for a failed compliance check from the MA Department of Revenue. As a result, they were placed under a 90-day suspension for sale of certain products beginning on December 15, 2021.

During the January 26, 2022 Board of Health meeting, the Board of Health voted 2-1 in favor of granting Galaxy Market a conditional 2022 Retail Tobacco Sales Permit through March 31, 2022. They are before the Board today to determine if their 2022 permit will be granted an extension of their 2022 Retail Tobacco Sales Permit.



Town of Arlington  
Department of Health and Human Services  
Office of the Board of Health  
27 Maple Street  
Arlington, MA 02476

Tel: (781) 316-3170  
Fax: (781) 316-3175

January 27, 2022

**Hand Delivered**  
Galaxy Market  
Attn: Shajid Shaikh  
1348 Massachusetts Ave  
Arlington, MA 02476

Re: *Galaxy Market- Arlington, MA*  
*Hearing Outcome - Temporary Tobacco and Nicotine Delivery Product Sales Permit*

Dear Mr. Shaikh:

This letter serves to document the decision rendered by the Board of Health at the hearing held on January 26, 2022 in response to the violations of *the Regulation Restricting the Sale of Tobacco Products and Nicotine Delivery Products* ("Regulation"). At the hearing, the Board of Health voted 2-1 to issue a Tobacco and Nicotine Delivery Product Sales Permit ("Permit") for Quarter 1 of 2022. This means your permit will be valid from January 27, 2022 through the end of business on March 31, 2022. You must appear before the Board on March 16, 2022. At this time, the Board will vote on whether or not to extend your permit.

Failure to comply with the Regulation may result in the temporary or permanent revocation of your permit.

Please direct any questions to the undersigned.

Sincerely,

A handwritten signature in black ink, appearing to read "Padraig Martin", is written over a horizontal line.

Padraig Martin  
Lead Health Compliance Officer  
pmartin@town.arlington.ma.us  
(781) 316-3169

cc: Natasha Waden, Director of Public Health



Town of Arlington  
Department of Health and Human Services  
Office of the Board of Health  
27 Maple Street  
Arlington, MA 02476

Tel: (781) 316-3170  
Fax: (781) 316-3175

December 20, 2021

**Hand Delivered**

Galaxy Market  
Attn: Shajid Shaikh  
1348 Massachusetts Ave  
Arlington, MA 02476

*Re: Galaxy Market- Arlington, MA  
Hearing Outcome - Suspension of Tobacco and Nicotine Delivery Product Sales Permit*

Dear Mr. Shaikh:

This letter serves to document the decision rendered by the Board of Health at the hearing held on December 15, 2021 in response to the violations of *the Regulation Restricting the Sale of Tobacco Products and Nicotine Delivery Products* ("Regulation"). At the hearing, the Board of Health voted unanimously to hold a second hearing to review your renewal applications of your Tobacco and Nicotine Delivery Product Sales Permit ("Permit") during the January 12, 2022 Board of Health meeting. In order to present an application to the Board on the aforementioned date, all outstanding fines and penalties must be paid in full. Additionally, a completed application must be submitted to the Board of Health prior to the January 12, 2022 hearing. The purpose of the hearing is for the Board to determine whether a Permit will be granted or denied for Galaxy Market.

As a reminder, the Permit remains suspended through the end of business on December 31, 2021. Shall the business be sold prior to then, the new owner will have first opportunity to apply for the Tobacco and Nicotine Delivery Product Sales Permit associated with Galaxy Market.

Please direct any questions to the undersigned.

Sincerely,

Padraig Martin  
Lead Health Compliance Officer  
pmartin@town.arlington.ma.us  
(781) 316-3169

cc: Natasha Waden, Director of Public Health



Town of Arlington  
Department of Health and Human Services  
Office of the Board of Health  
27 Maple Street  
Arlington, MA 02476

Tel: (781) 316-3170  
Fax: (781) 316-3175

## Correction Order

September 2, 2021

**HAND DELIVERED**

Galaxy Market  
Attn: Shajid Shaikh  
1348 Massachusetts Avenue  
Arlington, MA 02476

Please be advised that on August 10, 2021, and on September 1, 2021, the Arlington Board of Health conducted an inspection of your establishment to ensure compliance with the suspension of your establishment's Tobacco and Nicotine Delivery Product Sales Permit. On August 10, 2021, multiple tobacco products were observed stored in totes adjacent to the register. On September 1, 2021, multiple tobacco products (including flavored tobacco) were observed under the counter at the time of inspection.

Galaxy Market violated the state law entitled "An Act to Modernize Tobacco Control", 105 CMR 665.000, and Board of Health Regulation Restricting the Sale of Tobacco Products and Nicotine Delivery Products by:

- ☐ Sale of tobacco product to a person under the Minimum Legal Sales Age;
- ☐ Sale of a flavored nicotine delivery tobacco product [flavored combustible and other traditional tobacco products are prohibited on and after June 1, 2020];
- ☐ Offered for sale a flavored nicotine delivery product [see above];
- ☐ Failure of a non-age restricted establishment to maintain a record from the manufacturer indicating that an unflavored nicotine delivery product has a nicotine content of 35 milligrams per milliliter or less;
- ☒ **Other, see the below additional violation(s), with any necessary additional pages attached:**

**Failure to remove all tobacco products and nicotine delivery products from the retail establishment upon suspension of the Tobacco and Nicotine Delivery Product Sales Permit.**

You are hereby ordered to comply with An Act to Modernize Tobacco Control, 105 CMR 665.000, and Board of Health Regulation Restricting the Sale of Tobacco Products and Nicotine Delivery Products. In addition, the following fines and actions apply against Galaxy Market for violations of 105 CMR 665.000 and Board of Health Regulation Restricting the Sale of Tobacco Products and Nicotine Delivery Products:

- ☐ First violation: a fine of one thousand dollars (\$1000.00) and the Tobacco and Nicotine Delivery Product Sales Permit shall be suspended for seven (7) consecutive business days;
- ☐ Second violation within a 36-month period from the first violation: a fine of two thousand dollars (\$2000.00) and the Tobacco and Nicotine Delivery Product Sales Permit shall be suspended for fourteen (14) consecutive business days;
- ☐ Third violation within a 36-month period from the first violation or additional violations during that time period: a fine of five thousand dollars (\$5000.00) and the Tobacco and Nicotine Delivery Product Sales Permit shall be suspended for thirty (30) consecutive business days.
- ☒ **Fourth violation within a 36-month period from the first violation or additional violations during that time period: a fine of five thousand dollars (\$5000.00) and the Tobacco and Nicotine Delivery Product Sales Permit shall be suspended for thirty (30) consecutive business days.**

You are hereby ordered to pay the amount of **\$5,000.00** by check or money order made payable to the Town of Arlington within twenty-one (21) days of receipt of this order to the address below:

Arlington Board of Health  
27 Maple Street  
Arlington, MA 02476

You are hereby ordered to attend a Board of Health hearing on **Wednesday, September 15<sup>th</sup>, 2021 at 2:00 PM**. This hearing will be held to determine any further enforcement proceedings, including the possible suspension of your permit. The meeting will be conducted online via remote participation. A link to register for the meeting will be forthcoming.

Failure to comply with this order may result in additional penalties as permitted by law.

Signed by:

---

Name:

---

Date:

Padraig Martin, REHS  
Lead Health Compliance Officer  
Town of Arlington  
27 Maple Street  
Arlington, MA 02476



Town of Arlington  
Department of Health and Human Services  
Office of the Board of Health  
27 Maple Street  
Arlington, MA 02476

Tel: (781) 316-3170  
Fax: (781) 316-3175

July 26, 2021

**Hand Delivered**

Galaxy Market  
Attn: Shajid Shaikh  
1348 Massachusetts Ave  
Arlington, MA 02476

*Re: Galaxy Market- Arlington, MA  
Suspension of Tobacco and Nicotine Delivery Product Sales Permit*

Dear Mr. Shaikh:

This letter serves to document the decision rendered by the Board of Health at the hearing held on July 21, 2021 in response to a violation of *the Regulation Restricting the Sale of Tobacco Products and Nicotine Delivery Products* ("Regulation") that occurred on June 22, 2021. At the hearing, the Board of Health voted unanimously to uphold a fine of five-thousand dollars (\$5,000.00) and to impose a 30-day suspension of your Tobacco and Nicotine Delivery Product Sales Permit ("Permit") in accordance with section P 1(a) of the Regulation, which is to be served beginning **August 17, 2021** and continuing through the end of business on **September 15, 2021**.

A future violation of the Regulation within thirty-six (36) months of the first violation (dated December 1, 2020) would be considered your fourth violation and may result in a fine of five-thousand dollars (\$5,000.00) and a suspension of your Permit for thirty (30) consecutive business days or the revocation of your Permit to sell tobacco and nicotine delivery products. Please note that the failure to remove all tobacco and nicotine delivery products shall constitute a separate violation of the Regulation, and the sale or distribution of tobacco or nicotine delivery products directly to a consumer while your Permit is suspended may result in the suspension of all permits issued by the Board of Health for thirty (30) consecutive business days. Please contact the undersigned with any questions.

Sincerely,

Padraig Martin  
Lead Health Compliance Officer  
(781) 316-3169  
[pmartin@town.arlington.ma.us](mailto:pmartin@town.arlington.ma.us)

cc: Natasha Waden, Director of Public Health



Town of Arlington  
Department of Health and Human Services  
Office of the Board of Health  
27 Maple Street  
Arlington, MA 02476

Tel: (781) 316-3170  
Fax: (781) 316-3175

July 26, 2021

**Hand Delivered**

Galaxy Market  
Attn: Shajid Shaikh  
1348 Massachusetts Ave  
Arlington, MA 02476

*Re: Galaxy Market- Arlington, MA  
Suspension of Tobacco and Nicotine Delivery Product Sales Permit*

Dear Mr. Shaikh:

This letter serves to document the decision rendered by the Board of Health at the hearing held on July 21, 2021 in response to a violation of *the Regulation Restricting the Sale of Tobacco Products and Nicotine Delivery Products* ("Regulation") that occurred on June 9, 2021. At the hearing, the Board of Health voted unanimously to uphold a fine of two-thousand dollars (\$2,000.00) and to impose a 14-day suspension of your Tobacco and Nicotine Delivery Product Sales Permit ("Permit") in accordance with section P 1(a) of the Regulation, which is to be served beginning **August 3, 2021** and continuing through the end of business on **August 16, 2021**.

A future violation of the Regulation within thirty-six (36) months of the first violation (dated December 1, 2020) would be considered your third violation and may result in a fine of five-thousand dollars (\$5,000.00) and a suspension of your Permit for thirty (30) consecutive business days or the revocation of your Permit to sell tobacco and nicotine delivery products. Please note that the failure to remove all tobacco and nicotine delivery products shall constitute a separate violation of the Regulation, and the sale or distribution of tobacco or nicotine delivery products directly to a consumer while your Permit is suspended may result in the suspension of all permits issued by the Board of Health for thirty (30) consecutive business days. Please contact the undersigned with any questions.

Sincerely,

Padraig Martin  
Lead Health Compliance Officer  
(781) 316-3169  
[pmartin@town.arlington.ma.us](mailto:pmartin@town.arlington.ma.us)

cc: Natasha Waden, Director of Public Health



Town of Arlington  
Department of Health and Human Services  
Office of the Board of Health  
27 Maple Street  
Arlington, MA 02476

Tel: (781) 316-3170  
Fax: (781) 316-3175

## Correction Order

June 23, 2021

### HAND DELIVERED

Galaxy Market  
Attn: Shajid Shaikh  
1348 Massachusetts Avenue  
Arlington, MA 02476

Please be advised that on June 22, 2021, at approximately 9:15 AM, the Arlington Board of Health Conducted an inspection of your establishment after receiving a complaint regarding sale of flavored products to minors. Multiple flavored tobacco products were observed behind the counter at the time of the inspection. These products included menthol and fruit flavored electronic nicotine delivery products.

Galaxy Market violated the state law entitled "An Act to Modernize Tobacco Control", 105 CMR 665.000, and Board of Health Regulation Restricting the Sale of Tobacco Products and Nicotine Delivery Products by:

- ☐ Sale of tobacco product to a person under the Minimum Legal Sales Age;
- ☐ Sale of a flavored nicotine delivery tobacco product [flavored combustible and other traditional tobacco products are prohibited on and after June 1, 2020];
- ☒ **Offered for sale a flavored nicotine delivery product [see above];**
- ☐ Failure of a non-age restricted establishment to maintain a record from the manufacturer indicating that an unflavored nicotine delivery product has a nicotine content of 35 milligrams per milliliter or less;
- ☐ Other, see the below additional violations, with any necessary additional pages attached:

You are hereby ordered to comply with An Act to Modernize Tobacco Control, 105 CMR 665.000, and Board of Health Regulation Restricting the Sale of Tobacco Products and Nicotine Delivery Products. In addition, the following fines and actions apply against Galaxy Market for violations of 105 CMR 665.000 and Board of Health Regulation Restricting the Sale of Tobacco Products and Nicotine Delivery Products:

- ☐ First violation: a fine of one thousand dollars (\$1000.00) and the Tobacco and Nicotine Delivery Product Sales Permit shall be suspended for seven (7) consecutive business days;
- ☐ Second violation within a 36-month period from the first violation: a fine of two thousand dollars (\$2000.00) and the Tobacco and Nicotine Delivery Product Sales Permit shall be suspended for fourteen (14) consecutive business days;
- ☒ **Third violation within a 36-month period from the first violation or additional violations during that time period: a fine of five thousand dollars (\$5000.00) and the Tobacco and Nicotine Delivery Product Sales Permit shall be suspended for thirty (30) consecutive business days.**

You are hereby ordered to pay the amount of **\$5,000.00** by check or money order made payable to the Town of Arlington within twenty-one (21) days of receipt of this order to the address below:

Arlington Board of Health  
27 Maple Street  
Arlington, MA 02476

You are hereby ordered to attend a Board of Health hearing on **Wednesday, July 21<sup>st</sup>, 2021 at 2:00 PM**. This hearing will be held to determine any further enforcement proceedings, including the possible suspension of your permit. The meeting will be conducted online via remote participation. A link to register for the meeting will be forthcoming.

Failure to comply with this order may result in additional penalties as permitted by law.

Signed by:

  
Name: \_\_\_\_\_

6/23/2021  
Date: \_\_\_\_\_

Padraig Martin, REHS  
Lead Health Compliance Officer  
Town of Arlington  
27 Maple Street  
Arlington, MA 02476



Town of Arlington  
Department of Health and Human Services  
Office of the Board of Health  
27 Maple Street  
Arlington, MA 02476

Tel: (781) 316-3170  
Fax: (781) 316-3175

## Correction Order

June 18, 2021

**HAND DELIVERED**

Galaxy Market  
Attn: Shajid Shaikh  
1348 Massachusetts Avenue  
Arlington, MA 02476

On Wednesday, June 9th, 2021, the Arlington Board of Health conducted a compliance check of several permitted retail tobacco vendors in town. Please be advised your establishment sold a package of Marlboro cigarettes to an underage individual at approximately 6:54 PM. This sale is in violation of 105 CMR 665.00: Minimum standards for retail sale of tobacco and electronic nicotine delivery systems and of the Board of Health Regulation Restricting the Sale of Tobacco Products and Nicotine Delivery Products.

Galaxy Market violated the state law entitled "An Act to Modernize Tobacco Control", 105 CMR 665.000, and Board of Health Regulation Restricting the Sale of Tobacco Products and Nicotine Delivery Products by:

- ☒ **Sale of tobacco product to a person under the Minimum Legal Sales Age;**
- ☐ Sale of a flavored nicotine delivery tobacco product [flavored combustible and other traditional tobacco products are prohibited on and after June 1, 2020];
- ☐ Offered for sale a flavored nicotine delivery product [see above];
- ☐ Failure of a non-age restricted establishment to maintain a record from the manufacturer indicating that an unflavored nicotine delivery product has a nicotine content of 35 milligrams per milliliter or less;
- ☐ Other, see the below additional violations, with any necessary additional pages attached:

You are hereby ordered to comply with An Act to Modernize Tobacco Control, 105 CMR 665.000, and Board of Health Regulation Restricting the Sale of Tobacco Products and Nicotine Delivery Products. In addition, the following fines and actions apply against Galaxy Market for violations of 105 CMR 665.000 and Board of Health Regulation Restricting the Sale of Tobacco Products and Nicotine Delivery Products:

- ☐ First violation: a fine of one thousand dollars (\$1000.00) and the Tobacco and Nicotine Delivery Product Sales Permit shall be suspended for seven (7) consecutive business days;
- ☒ **Second violation within a 36-month period from the first violation: a fine of two thousand dollars (\$2000.00) and the Tobacco and Nicotine Delivery Product Sales Permit shall be suspended for fourteen (14) consecutive business days;**
- ☐ Third violation within a 36-month period from the first violation or additional violations during that time period: a fine of five thousand dollars (\$5000.00) and the Tobacco and Nicotine Delivery Product Sales Permit shall be suspended for thirty (30) consecutive business days.


You are hereby ordered to pay the amount of **\$2,000.00** by check or money order made payable to the Town of Arlington within twenty-one (21) days of receipt of this order to the address below:

Arlington Board of Health  
27 Maple Street  
Arlington, MA 02476

You are hereby ordered to attend a Board of Health hearing on **Wednesday, July 21<sup>st</sup>, 2021 at 2:00 PM**. This hearing will be held to determine any further enforcement proceedings, including the possible suspension of your permit. The meeting will be conducted online via remote participation. A link to register for the meeting will be forthcoming.

Failure to comply with this order may result in additional penalties as permitted by law.

Signed by:

  
Name: \_\_\_\_\_

6/18/2021  
Date: \_\_\_\_\_

Padraig Martin, REHS  
Lead Health Compliance Officer  
Town of Arlington  
27 Maple Street  
Arlington, MA 02476



Town of Arlington  
Department of Health and Human Services  
Office of the Board of Health  
27 Maple Street  
Arlington, MA 02476

Tel: (781) 316-3170  
Fax: (781) 316-3175

## Correction Order

December 4, 2020

**HAND DELIVERED**

Galaxy Market  
Attn: Shajid Shaikh  
1348 Massachusetts Avenue  
Arlington, MA 02476

Please be advised that on December 1, 2020, at approximately 11:15 AM, the Arlington Board of Health conducted an inspection of your establishment after receiving a complaint regarding the sale of menthol tobacco products. Multiple flavored tobacco products were observed behind the counter at the time of inspection. These products included menthol cigarettes, menthol cigarette filter tubes, vanilla flavored cigarillos, and menthol flavored cigarillos.

Galaxy Market violated the state law entitled "An Act to Modernize Tobacco Control" and 105 CMR 665.000 by:

- ☐ Sale of tobacco product to a person under the Minimum Legal Sales Age;
- ☐ Sale of a flavored nicotine delivery tobacco product [flavored combustible and other traditional tobacco products are prohibited on and after June 1, 2020];
- ☒ **Offered for sale a flavored nicotine delivery product [see above];**
- ☐ Failure of a non-age restricted establishment to maintain a record from the manufacturer indicating that an unflavored nicotine delivery product has a nicotine content of 35 milligrams per milliliter or less;
- ☐ Other, see the below additional violations, with any necessary additional pages attached:

You are hereby ordered to comply with An Act to Modernize Tobacco Control and 105 CMR 665.000. In addition, the following fines and actions apply against Galaxy Market for violations of 105 CMR 665.000:

- ☒ **First violation: a fine of One Thousand (\$1,000.00) Dollars;**
- ☐ Second violation within a 36-month period from the first violation: a fine of Two Thousand (\$2,000.00) Dollars and a minimum of a 1 day suspension up to a 7 day suspension;

☐ Third violation within a 36-month period from the first violation or additional violations during that time period: a fine of Five Thousand (\$5,000.00) Dollars and a minimum of a 7 day suspension up to a 30 day suspension.

Consistent with 105 CMR 665.000, if this is a second, third or more violation within a 36-month period as indicated above, a **notice of the intent to suspend** the sale of tobacco products at or by **Galaxy Market** will follow forthwith.

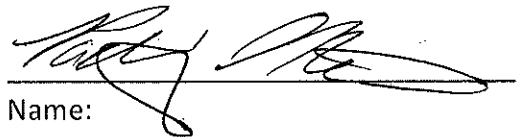
You are hereby ordered to pay the amount of **\$1,000.00** by check or money order made payable to the Town of Arlington within twenty-one (21) days of receipt of this order to the address below:

Arlington Board of Health  
27 Maple Street  
Arlington, MA 02476

If you are aggrieved by this order, you have the right to request a Hearing before the Board of Health. This request must be made by you, in writing, and filed within seven (7) days after the date this Order was served or actually received. Any affected party has a right to appear at said hearing.

Failure to comply with this order may result in additional penalties as permitted by law.

Signed by:

  
Name:

12/4/2020  
Date:

Padraig Martin, REHS  
Lead Health Compliance Officer  
Town of Arlington  
27 Maple Street  
Arlington, MA 02476

**ARTICLE 11**  
**SINGLE USE PLASTIC WATER BOTTLE REGULATION**  
**(ART.\_\_\_\_, ATM – 04/25/22)**

**SECTION 1.           Purpose and Intent**

The Town of Arlington (“Town”) recognizes that the use and disposal of single use plastic water bottle has significant negative impacts on the marine and land environment, including but not limited to:

1. Contributing to the plastic pollution of the land environment, waterways and oceans;
2. Contributing to the harm and premature death of marine animals through ingestion;
3. Posing a health risk to humans through the leaching of chemicals, such as phthalates, known hormone disruptors, from plastic bottles into drinking water;
4. Requiring the use of 17 million gallons of oil nationally every year for their manufacture.

The purpose of this bylaw is to protect the environment, reduce solid waste and unnecessary strains on recycling resources, minimize litter, reduce the Town’s carbon footprint, protect local waterways, and protect the health of its citizens by barring the sale of single use plastic water bottles.

**SECTION 2.           Definitions**

A.     “Single use plastic water bottle”: Any single serving container containing non-carbonated, unflavored drinking water with a volume of one liter or less, that is made in whole or in part of plastic material with designated resin codes 1 through 6.

B.     “Department”: The Arlington Department of Health and Human Services.

C.     “Director”: The Director of the Arlington Department of Health and Human Services.

D.     “Retail Establishment”: Any commercial enterprise, whether for or not for profit, including but not limited to the following: restaurants, pharmacies, convenience stores, grocery stores, gas stations, liquor stores, seasonal and temporary businesses, and any other business that sells non-carbonated, unflavored drinking water to the public.

**SECTION 3.           Regulation of Single Use Plastic Water Bottles**

No retail establishment, as defined in Section 2, shall sell any single use plastic water bottle, as defined in Section 2. The sale of single use plastic water bottles is unlawful and any such sale is subject to the enforcement and penalties set forth in Section in Section 4 of this Article.

#### **SECTION 4. Enforcement and Penalties**

A. Each retail establishment, as defined in Section 2, located in the Town shall comply with this bylaw.

1. If it is determined that a violation has occurred, the Director or their designee shall first issue a warning notice to the retail establishment for a first time violation.

2. If, after 14 days from receipt of the warning notice, the retail establishment continues to violate this bylaw or commits a second violation, the Director or their designee shall issue a notice of violation and shall impose a penalty against the retail establishment.

3. The penalty for each violation that occurs after the issuance of the warning notice shall be: no more than:

- (i) \$100 for the first offense;
- (ii) \$150 for the second offense;
- (iii) \$200 for the third and all subsequent offenses.

5. Retail establishments shall have 15 calendar days after the date that a notice of violation is issued to pay the penalty or request a hearing in writing to the Director.

B. The Director may promulgate additional guidelines and regulations necessary for the effective enforcement of this bylaw, consistent with the foregoing.

#### **SECTION 5. Exemptions for Emergencies**

Sales occurring subsequent to a declaration of an emergency adversely affecting the availability or quality of drinking water to Town residents by the Town's Emergency Management Director or other duly authorized Town, Commonwealth of Massachusetts, or United States official shall be exempt from the bylaw until seven days after such declaration has expired.

#### **SECTION 7. Effective Date**

The provisions of this bylaw shall take effect on November 1, 2022.

#### **SECTION 8. Severability**

The provisions of this Bylaw are severable. If any of provision or section is held to be invalid by the Attorney General, a court of competent jurisdiction or other reviewing authority, all other provisions and sections shall continue in full force and effect.